

House Daily Reader

Wednesday, February 06, 2002

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State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

209H0045

HOUSE EDUCATION COMMITTEE ENGROSSED NO. **HB 1004** - 01/29/2002

Introduced by: Representatives Wick, Bradford, Broderick, Gillespie, Holbeck, McCoy, and Teupel and Senators Moore, Ham, McIntyre, and Sutton (Dan) at the request of the Interim Teacher Credentialing and Compensation Committee

1 FOR AN ACT ENTITLED, An Act to provide for a refund of tuition for certain teachers.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. Terms used in this Act mean:

4 (1) "Eligible teacher," a teacher who teaches in a subject area of critical need as
5 determined by the Department of Education and Cultural Affairs, and whose first year
6 of teaching is after the 2002 school year;

7 (2) "Postsecondary tuition," the lesser of five thousand dollars or actual qualified higher
8 education expenses as defined in subdivision 13-63-1(13) paid by the eligible teacher;

9 (3) "Secretary," the secretary of the Department of Education and Cultural Affairs.

10 Section 2. Notwithstanding provisions of § 4-7-39, at the end of each fiscal year, the
11 secretary shall transfer twenty-five percent of any money, not to exceed one million dollars, that
12 has been appropriated for state aid to general education or state aid to special education that has
13 not been spent or legally obligated to the teacher tuition reimbursement fund, which is hereby
14 created. No money may be transferred to the teacher tuition reimbursement fund if the amount



1 in the fund is two million five hundred thousand dollars or more.

2 Section 3. There is hereby created in the state treasury the South Dakota teacher tuition
3 reimbursement fund into which shall be deposited any appropriations, private donations, grants,
4 and other funds provided to the Department of Education and Cultural Affairs for tuition
5 reimbursements to teachers. Any interest earned on the money in the fund shall be deposited in
6 the fund.

7 Section 4. An eligible teacher shall receive a reimbursement equal to seventy-five percent of
8 the teacher's first year's postsecondary tuition if the teacher has taught in South Dakota for three
9 consecutive years following graduation from an accredited college or university.

10 Section 5. An eligible teacher shall receive a reimbursement equal to seventy-five percent of
11 the teacher's second year's postsecondary tuition if the teacher has taught in South Dakota for
12 five consecutive years following graduation from an accredited college or university.

13 Section 6. An eligible teacher shall receive a reimbursement equal to seventy-five percent of
14 the teacher's third year's postsecondary tuition if the teacher has taught in South Dakota for
15 seven consecutive years following graduation from an accredited college or university.

16 Section 7. An eligible teacher shall receive a reimbursement equal to seventy-five percent of
17 the teacher's fourth year's postsecondary tuition if the teacher has taught in South Dakota for
18 nine consecutive years following graduation from an accredited college or university.

19 Section 8. An eligible teacher shall receive an additional reimbursement equal to the
20 remaining twenty-five percent of the teacher's first four year's postsecondary tuition if the teacher
21 has taught in South Dakota for ten consecutive years following graduation from an accredited
22 college or university.

23 Section 9. The Department of Education and Cultural Affairs shall pay eligible teachers their
24 tuition reimbursement out of any money in the teacher tuition reimbursement fund or a

1 proportion of those funds available.

2 Section 10. The Department of Education and Cultural Affairs shall promulgate rules,

3 pursuant to chapter 1-26, to implement the provisions of this Act.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

337H0178

HOUSE EDUCATION COMMITTEE ENGROSSED NO.

HB 1085 - 01/30/2002

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives McCaulley, Garnos, and Wick

1 FOR AN ACT ENTITLED, An Act to establish a master teacher program to award certain
2 teachers.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. The Department of Education and Cultural Affairs shall establish a master teacher
5 program. The South Dakota master teacher program shall reward qualified teachers in qualified
6 school districts by means of a yearly bonus of not more than six thousand dollars per year.

7 Section 2. The Department of Education and Cultural Affairs may allocate only those funds
8 appropriated by the Legislature for the purposes of this Act to each qualified school district
9 according to its relative portion of the total average daily membership as defined in § 13-13-10.1.
10 Any qualified school district may access a portion of the funds for the South Dakota master
11 teacher program if the school district implements a plan to reward teachers who demonstrate
12 excellence and mastery in their profession. All moneys allocated for school districts that are not
13 qualified school districts, shall be redistributed to the qualified school districts on an average
14 daily membership basis.



Section 3. If a qualified school identifies a teacher who has demonstrated excellence and mastery, the qualified school district shall provide a written recommendation and substantiation, along with the specific amount of the bonus to be paid, to the Department of Education and Cultural Affairs after March first and before April fifteenth. The qualified school district is limited to requesting bonuses in an amount not to exceed the amount allocated for such school district.

Section 4. For purposes of this Act, a master teacher must comply with the plan developed by the qualified school district and meet the following criteria:

- (1) The teacher has taught at least three years in the qualified school district;
- (2) The teacher exhibits excellence and mastery in both a subject area and teaching methods;
- (3) The teacher is committed to students and their learning;
- (4) The teacher is responsible for managing and monitoring student learning;
- (5) The teacher thinks systematically about teaching and learns from experience;
- (6) The teacher is a member of learning communities;
- (7) The teacher submits a portfolio of professional work;
- (8) The teacher is able to demonstrate student performance; and
- (9) The teacher is endorsed by an administrator, a school board member, a parent, a colleague, or a student in the school district currently employing the teacher.

Section 5. For purposes of this Act, a qualified school district is one that meets the following criteria:

- (1) The school district has a general fund balance of not more than thirty-five percent of total general fund expenditures for the previous school year;
- (2) The school district rewards not more than twenty-five percent of its teachers, in any school year, with funds from the South Dakota master teacher program;

1 (3) The school district awards money to master teachers without a reduction or offset in
2 their regular salary;

3 (4) The school district develops a plan to reward master teachers with the advice and
4 counsel of members of the community, administration, and teachers;

5 (5) The school district identifies a panel of individuals designated to select the master
6 teachers. The panel shall consist of seven members including a teacher, an
7 administrator, a school board member, a student, a former student, a parent, and a
8 member of the business community;

9 (6) The school district's plan is approved by the Department of Education and Cultural
10 Affairs.

11 Section 6. The secretary of the Department of Education and Cultural Affairs shall approve
12 vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

975H0266

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1113** - 02/05/2002

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Hennies (Thomas), Hennies (Don), Kooistra, McCoy, Monroe, Murschel, Nesselhuf, Pederson (Gordon), Pitts, Slaughter, Van Etten, and Van Gerpen and Senators Whiting, Daugaard, de Hueck, Dennert, Ham, Kleven, McCracken, McIntyre, Moore, Olson (Ed), Reedy, Staggers, Sutton (Dan), and Volesky

1 FOR AN ACT ENTITLED, An Act to require the Department of Corrections to seek
2 membership in the Performance-based Standards Project and to declare an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. The Department of Corrections shall seek membership in the Performance-based
5 Standards Project sponsored by the Office of Juvenile Justice and Delinquency Prevention,
6 United States Department of Justice. The Department of Corrections shall apply for membership
7 as an implementation site and shall sign an agreement with the Council of Juvenile Correctional
8 Administrators, hereinafter referred to as the council, committing adequate resources to
9 complete the data collection cycles and facility improvement plans.

10 Section 2. If the membership application in section 1 of this Act is approved, the Department
11 of Corrections shall apply to the council for demonstrated program funding provided by the
12 Office of Juvenile Justice Delinquency Prevention to support changes and actions outlined in



1 facility improvement plans.

2 Section 3. If the membership application in section 1 of this Act is approved, the department
3 may request federal spending authority from the committee created in § 4-8A-2.

4 Section 4. If the membership application in section 1 of this Act is approved, the Department
5 of Corrections shall appoint at least one manager who shall organize and supervise agency
6 resources and activities to achieve membership and completion of designated programs.

7 Section 5. No child in the custody of the State of South Dakota or any subdivision thereof
8 may be placed in any program unless that program is actively seeking membership in the
9 Performance-based Standards Project, has completed designated programs involved with
10 membership in the council, is actively seeking accreditation through application, or is accredited
11 by the American Corrections Association if such accreditation is available.

12 Section 6. The Department of Corrections shall write a report detailing the assessments made
13 by the council and the actions taken by the department. The Department of Corrections shall
14 present the report semiannually to the Corrections Commission, established in § 1-15-1.13,
15 beginning on June 30, 2002. The department shall present the report to the Governor and the
16 Legislature annually, beginning on January 1, 2003.

17 Section 7. Whereas, this Act is necessary for the support of the state government and its
18 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full
19 force and effect from and after its passage and approval.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

908H0351

HOUSE APPROPRIATIONS COMMITTEE ENGROSSED

NO. **HB 1120** - 02/01/2002

Introduced by: Representatives Sutton (Duane), Burg, Elliott, Frost, Garnos, Hennies (Thomas), Hundstad, Jensen, Klaudt, Kloucek, Lintz, McCoy, Napoli, Olson (Mel), and Rhoden and Senators Apa, Diedtrich (Elmer), and Duxbury

1 FOR AN ACT ENTITLED, An Act to appropriate money to the South Dakota Horsemen's
2 Association and to declare an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. There is hereby appropriated from the South Dakota bred-racing fund the sum of
5 two hundred fifty thousand dollars (\$250,000), to the South Dakota Horsemen's Association,
6 a South Dakota nonprofit corporation. Money appropriated pursuant to this section shall be
7 divided equally for use by the Fort Pierre Race Track and the Brown County Race Track.

8 Section 2. There is hereby appropriated from the special racing revolving fund the sum of
9 two hundred fifty thousand dollars (\$250,000), to the South Dakota Horsemen's Association,
10 a South Dakota nonprofit corporation. Money appropriated pursuant to this section shall be
11 divided equally for use by the Fort Pierre Race Track and the Brown County Race Track.

12 Section 3. The executive secretary of the gaming commission shall approve vouchers and the
13 state auditor shall draw warrants to pay expenditures authorized by this Act.

14 Section 4. Whereas, this Act is necessary for the support of the state government and its



- 1 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full
- 2 force and effect from and after its passage and approval.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

527H0263

HOUSE TRANSPORTATION COMMITTEE

ENGROSSED NO. **HB 1133** - 02/04/2002

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Flowers, Abdallah, Broderick, Brown (Richard), and Pummel
and Senators Duxbury, Albers, Diedrich (Larry), Diedrich (Elmer), Hagen,
Olson (Ed), Staggers, and Vitter

1 FOR AN ACT ENTITLED, An Act to revise certain requirements for displaying motor vehicles
2 at events.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That subdivision (6) of § 32-6B-5 be amended to read as follows:

5 (6) Any person engaged in the business of manufacturing or customizing ~~motorcycles~~
6 motor vehicles may display but may not sell any ~~motorcycles~~ motor vehicle at an
7 event, if the event lasts three or more days and if the person registers with and
8 purchases a permit from the Department of Revenue at least five days before the
9 event. The person shall pay a fee of one hundred fifty dollars for a ten-day temporary
10 permit. However, if the permit is purchased at least five days before the event, the
11 person shall pay a fee of one hundred dollars for the ten-day temporary permit;

12



State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

543H0472

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED NO. **HB 1136** - 02/04/2002

Introduced by: Representatives Olson (Mel), Bartling, Bradford, Burg, Davis, Elliott, Flowers, Gillespie, Glenski, Hanson (Gary), Hargens, Hundstad, Kloucek, Nachtigal, Nesselhuf, Peterson (Jim), Sigdestad, and Valandra and Senators Hutmacher, Dennert, Hagen, Koetzle, McIntyre, Moore, Reedy, Sutton (Dan), Symens, and Volesky

1 FOR AN ACT ENTITLED, An Act to clarify the approval authority for local accounts of the
2 state treasurer and state auditor.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 4-4-3 be amended to read as follows:

5 4-4-3. All state public funds shall be received and maintained in the state treasury, and shall
6 be disbursed only upon proper authorization by the state auditor and the state treasurer, unless
7 the state treasurer and state auditor ~~shall~~ jointly determine a justification exists for maintaining
8 ~~such~~ public funds in a local bank account. A local bank account authorized by the state auditor
9 and state treasurer is an official account of the state subject to the custody of the state treasurer
10 under § 1-10-1. Neither the state treasurer nor the state auditor may be a signatory on any local
11 account. Any agency holding state funds in any local bank account shall provide a quarterly
12 statement of activity in that account to the state treasurer and the state auditor.

13 Section 2. That § 4-3-5 be amended to read as follows:



1 4-3-5. ~~Every such~~ Each officer or employee shall designate in writing, to be filed in ~~his~~ the
2 officer's or employee's office, the bank or banks in which ~~he shall have~~ are deposited the current
3 receipts of ~~his~~ the office or department ~~and any~~. Any account showing any such deposit ~~shall be~~
4 is an official account and shall be accessible to the inspection of the auditor-general at any time
5 during banking hours.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

118H0509

HOUSE EDUCATION COMMITTEE ENGROSSED NO.

HB 1166 - 01/24/2002

Introduced by: Representatives Holbeck, Garnos, and Van Etten and Senators Reedy, Albers,
Daugaard, Munson, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to provide for a master teacher program and to make an
2 appropriation therefor.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. The master teacher program is hereby established within the Department of
5 Education and Cultural Affairs. Each year the department shall select one hundred teachers from
6 South Dakota's public school districts and designate those teachers as master teachers.

7 Section 2. Any person employed as a full time teacher in a South Dakota public school
8 district may apply to the Department of Education and Cultural Affairs to be designated as a
9 master teacher.

10 Section 3. The Department of Education and Cultural Affairs may establish criteria for
11 selection of master teachers provided that the criteria include five years of teaching experience,
12 experience in remote teaching or other use of technology in teaching, endorsement by the
13 principal of the school in which the teacher teaches or by the superintendent of the school district
14 that employs the teacher, and submission of a resume or portfolio by the applicant.



1 Section 4. Each teacher selected as a master teacher is entitled to an award of five thousand
2 dollars upon receiving the award and an award of one thousand dollars for each year after that,
3 up to five years. The one-half of the initial five thousand dollar award shall be paid by the State
4 of South Dakota and one-half shall be paid by the school district that employs the teacher. The
5 subsequent one thousand dollar awards shall be paid by the school district that employs the
6 teacher. If a teacher who has been designated as a master teacher becomes employed by another
7 South Dakota public school district, that school district assumes the responsibility for any award
8 under the provisions of this Act to which the teacher is entitled.

9 Section 5. There is hereby appropriated from the general fund the sum of two hundred fifty
10 thousand dollars (\$250,000), or so much thereof as may be necessary, to the Department of
11 Education and Cultural Affairs to pay master teacher awards as provided for in this Act..

12 Section 6. The secretary of the Department of Education and Cultural Affairs shall approve
13 vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

14 Section 7. Any amounts appropriated in this Act not lawfully expended or obligated by
15 June 30, 2003, shall revert in accordance with § 4-8-21.

16 Section 8. The Department of Education and Cultural Affairs may promulgate rules pursuant
17 to chapter 1-26 to implement the provisions of this Act.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

391H0028

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1220 - 02/04/2002

Introduced by: Representatives Murschel, Bartling, Brown (Jarvis), Davis, Derby, Hennies (Thomas), Jensen, Juhnke, Kooistra, Madsen, and Slaughter and Senators Everist and Daugaard

1 FOR AN ACT ENTITLED, An Act to allow certain third parties to intervene in a custody
2 dispute of a child.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. In disputes regarding custody of a child, the court may allow an interested third
5 party to intervene upon motion. Before allowing intervention, the court may appoint counsel for
6 the child. The court may award full or partial custody, care, education, and visitation rights of
7 the child to any interested third party upon such conditions and limitations as the court deems
8 equitable.

9 Section 2. In making any order pursuant to section 1 of this Act, the court shall be guided
10 by the best interests of the child, giving consideration to the wishes of the child if the child is of
11 sufficient age and capable of forming an intelligent preference.

12 Section 3. In disputes regarding custody of a child between a parent and an interested third
13 party, the presumption in favor of the parent may be rebutted by showing extraordinary
14 circumstances. For the purposes of this section, the term, extraordinary circumstances, means



1 circumstances that result in serious detriment to the child, including any one or more of the
2 following:

- 3 (1) The abandonment or persistent neglect of the child by the parent;
- 4 (2) The likelihood of serious physical or emotional harm to the child if placed in the
5 parent's custody;
- 6 (3) The extended, unjustifiable absence of parental custody;
- 7 (4) The abdication of parental responsibilities;
- 8 (5) The provision of the child's physical, emotional, and other needs by persons other than
9 the parent over a significant period of time;
- 10 (6) The existence of a bonded relationship between the child and the nonparent custodian
11 sufficient to cause significant emotional harm to the child in the event of a change in
12 custody;
- 13 (7) The substantial enhancement of the child's well-being while under the care of the
14 nonparent;
- 15 (8) The extent of the parent's delay in seeking to reacquire custody of the child;
- 16 (9) The demonstrated quality of the parent's commitment to raising the child;
- 17 (10) The likely degree of stability and security in the child's future with the parent;
- 18 (11) The extent to which the child's right to an education would be impaired while in the
19 custody of the parent; or
- 20 (12) Any other circumstances that would substantially and adversely impact the welfare of
21 the child.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

358H0670

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1283 - 02/04/2002

Introduced by: Representatives Eccarius and Michels and Senators Daugaard, Diedrich
(Larry), and Everist

1 FOR AN ACT ENTITLED, An Act to establish the crime of physical abuse of an infant, to
2 designate the offense as a crime of violence, and to provide certain penalties therefor.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Any person who, intentionally or recklessly, injures an infant, less than three years
5 old, by causing any intracranial or intraocular bleeding, swelling, or damage to the brain, whether
6 caused by blows, shaking, or causing the infant's head to impact with an object or surface, is
7 guilty of a Class 2 felony.

8 A second or subsequent conviction for a violation of this section shall be punished by a
9 mandatory sentence in the state penitentiary of at least ten years, which sentence may not be
10 suspended. Probation, suspended imposition of sentence, or suspended execution of sentence,
11 may not form the basis for reducing the mandatory time of incarceration required by this section.

12 A conviction for the purposes of the mandatory sentence provisions of this section is the
13 acceptance by a court of any plea, other than not guilty, including nolo contendere, or a finding
14 of guilt by a jury or court.



Section 2. That subdivision (9) of § 22-1-2 be amended to read as follows:

(9) "Crime of violence," any of the following crimes or an attempt to commit, or a conspiracy to commit, any of the same: murder, manslaughter, rape, aggravated assault, riot, robbery, burglary in the first or second degree, arson, kidnapping, felony sexual contact as defined in § § 22-22-7 and 22-22-19.1, felony child abuse as defined in § 26-10-1 and felony physical abuse of an infant as provided in section 1 of this Act, or any other felony in the commission of which the perpetrator used force, or was armed with a dangerous weapon, or used any explosive or destructive device;

Section 3. That § 24-15A-32 be amended to read as follows:

24-15A-32. Each inmate sentenced to a penitentiary term, except those under a sentence of life or death, or an indeterminate sentence which is not yet set to a term of years by the board, shall have an initial parole date set by the department. This date ~~will~~ shall be calculated by applying the percentage indicated in the following grid to the full term of the inmate's sentence pursuant to § 22-6-1. The following crimes or an attempt to commit, or a conspiracy to commit, any of the following crimes shall be considered a violent crime for purposes of setting an initial parole date: murder, manslaughter, rape, aggravated assault, riot, robbery, burglary in the first or second degree, arson, kidnapping, felony sexual contact as defined in §§ 22-22-7 and 22-22-19.1, felony child abuse as defined in § 26-10-1 and felony physical abuse of an infant as provided in section 1 of this Act, felony sexual contact as defined in § 22-22-7.2, felony stalking as defined in §§ 22-19A-2 and 22-19A-3, photographing a child in an obscene act, felony assault as defined in § 22-18-26, felony simple assault as defined in § 22-18-1, commission of a felony while armed as defined in §§ 22-14-12 and 22-14-13.1, discharging a firearm at an occupied structure or motor vehicle as defined in § 22-14-20, discharging a firearm from a moving vehicle as defined in § 22-14-21, and criminal pedophilia as defined in § 22-22-30.1:

1	Felony Convictions			
2	Felony Class	First	Second	Third
3	Nonviolent			
4	Class 6	.25	.30	.40
5	Class 5	.25	.35	.40
6	Class 4	.25	.35	.40
7	Class 3	.30	.40	.50
8	Class 2	.30	.40	.50
9	Class 1	.35	.40	.50
10	Violent			
11	Class 6	.35	.45	.55
12	Class 5	.40	.50	.60
13	Class 4	.40	.50	.65
14	Class 3	.50	.60	.70
15	Class 2	.50	.65	.75
16	Class 1	.50	.65	.75
17	Class B	1.0	1.0	1.0
18	Class A	1.0	1.0	1.0

19 Each inmate shall serve at least sixty days prior to parole release. Inmates with life sentences
20 are not eligible for parole. An initial parole date through the application of this grid may be
21 applied to a life sentence only after the sentence is commuted to a term of years. A Class A or
22 B felony commuted to a number of years shall be applied to the Class 1 violent column of the
23 grid.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0723

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1300 - 02/04/2002

This bill has been extensively amended (houghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: The Committee on Judiciary at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to clarify the state's sovereign immunity in the courts of
2 other jurisdictions.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 3-21-10 be amended to read as follows:

5 3-21-10. No waiver of state immunity by statute or, where permitted, by any officer or agent
6 of the state may constitute or be interpreted as a waiver of the state's immunity from lawsuits in
7 federal court or the courts of any jurisdiction other than the South Dakota Unified Judicial
8 System.



State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0230

SENATE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **SB 15** - 01/16/2002

Introduced by: The Committee on Health and Human Services at the request of the
Department of Human Services

1 FOR AN ACT ENTITLED, An Act to repeal and revise certain provisions regarding the
2 composition of the mental health planning and coordination advisory council.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 27A-3-1.2 be repealed.

5 ~~— 27A-3-1.2. The council shall consist of the following who shall be appointed by and serve~~
6 ~~at the pleasure of the Governor:~~

7 ~~— (1) — The secretary of the Department of Human Services, or his designee;~~

8 ~~— (2) — The executive director of the South Dakota Advocacy Services;~~

9 ~~— (3) — A director of a Department of Human Services approved community mental health~~
10 ~~center, whose term shall expire July 1, 1992;~~

11 ~~— (4) — A qualified mental health professional who provides direct services in an approved~~
12 ~~community mental health center (not a center director), whose term shall expire~~
13 ~~July 1, 1991;~~

14 ~~— (5) — A representative of the South Dakota Council of Mental Health Centers, whose term~~



1 ~~shall expire July 1, 1990;~~

2 ~~— (6) — A representative of the South Dakota Board of Regents;~~

3 ~~— (7) — The executive director of the South Dakota Housing Development Authority, or his~~
4 ~~designee;~~

5 ~~— (8) — The state court administrator, or his designee;~~

6 ~~— (9) — A qualified mental health professional from a private, nonprofit service-providing~~
7 ~~agency other than a community mental health center, whose term shall expire July 1,~~
8 ~~1991;~~

9 ~~— (10) — The administrator of the South Dakota Human Services Center or his designee;~~

10 ~~— (11) — A representative of a statewide mental health consumer organization, whose term~~
11 ~~shall expire July 1, 1991;~~

12 ~~— (12) — A family representative of an adult (eighteen years or over) severely mentally ill~~
13 ~~individual, whose term shall expire July 1, 1991;~~

14 ~~— (13) — A family representative of an adult (eighteen years or over) severely mentally ill~~
15 ~~individual, whose term shall expire July 1, 1991;~~

16 ~~— (14) — A family representative of a child (under eighteen years) severely mentally ill~~
17 ~~individual, whose term shall expire July 1, 1992;~~

18 ~~— (15) — A primary consumer of mental health services, whose term shall expire July 1, 1990;~~

19 ~~— (16) — A primary consumer of mental health services, whose term shall expire July 1, 1991;~~

20 ~~— (17) — A primary consumer of mental health services, whose term shall expire July 1, 1992;~~

21 ~~— (18) — A representative of a statewide family support and advocacy group whose term shall~~
22 ~~expire July 1, 1990;~~

23 ~~— (19) — A public educator in a kindergarten through twelfth grade program (not a provider~~
24 ~~or state employee), whose term shall expire July 1, 1991;~~

1 ~~— (20) A representative of consumers at large (not a provider or state employee), whose term~~
2 ~~shall expire July 1, 1992;~~

3 ~~— (21) A representative of consumers at large (not a provider or state employee), whose term~~
4 ~~shall expire July 1, 1990;~~

5 ~~— (22) The secretary of the Department of Social Services, or his designee.~~

6 ~~— Future terms of those members with established terms shall be three years.~~

7 Section 2. That § 27A-3-1.1 be amended to read as follows:

8 27A-3-1.1. There is created the Mental Health Planning and Coordination Advisory Council
9 which shall be appointed by and serve at the pleasure of the Governor. The council shall be
10 assigned to the Department of Human Services. Technical assistance and staff support shall be
11 provided to the council by the Department of Human Services. The secretary of human services
12 shall be responsible for the coordination of activities between the advisory council and the
13 Department of Human Services.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0246

HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **SB 42** - 01/28/2002

Introduced by: The Committee on Judiciary at the request of the Attorney General

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the registration of sex
2 offenders.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 22-22-30 be amended to read as follows:

5 22-22-30. For the purposes of §§ 22-22-31 to 22-22-39, inclusive, a sex crime is any of the
6 following crimes regardless of the date of the commission of the offense or the date of
7 conviction:

8 (1) Rape as set forth in § 22-22-1;

9 (2) Sexual contact with a minor under sixteen as set forth in § 22-22-7 if committed by
10 an adult and the adult is convicted of a felony;

11 (3) Sexual contact with a person incapable of consenting as set forth in § 22-22-7.2 if
12 committed by an adult;

13 (4) Incest as set forth in § 22-22-19.1 if committed by an adult;

14 (5) Photographing a child in an obscene act as set forth in § 22-22-23;

15 (6) Possession of child pornography as set forth in § 22-22-23.1;



- 1 (7) Sale of obscene pictures of a child as set forth in § 22-22-24;
- 2 (8) Kidnapping, as set forth in § 22-19-1, if the victim of the criminal act is a minor;
- 3 (9) Promotion of prostitution of a minor as set forth in subdivision 22-23-2(2);
- 4 (10) Criminal pedophilia as set forth in § 22-22-30.1;
- 5 (11) Felony indecent exposure as set forth in former § 22-24-1 or indecent exposure as set
- 6 forth in § 22-24-1.2;
- 7 (12) An attempt to commit any of the crimes listed in this section; ~~or~~
- 8 (13) Any crime committed in a place other than this state which would constitute a sex
- 9 crime under this section if committed in this state;
- 10 (14) Any federal crime or court martial that would constitute a sex crime under federal
- 11 law; or
- 12 (15) Any crime committed in another state if that state also requires that anyone convicted
- 13 of that crime register as a sex offender in that state.

14 Section 2. That § 22-22-31 be amended to read as follows:

15 22-22-31. Any person ~~residing in this state~~ who has been convicted whether upon a verdict
16 or plea of guilty or a plea of nolo contendere, or who has received a suspended imposition of
17 sentence which has not been discharged pursuant to § 23A-27-14 prior to July 1, 1995, for
18 commission of a sex crime, as defined in § 22-22-30, or any person who is a juvenile fifteen years
19 of age or older adjudicated of a sex crime, as defined in subdivision 22-22-30(1) or (9), or of
20 felony sexual contact, as defined in § 22-22-7.2, shall, within ten days of coming into any county
21 to reside ~~or, temporarily domicile for more than thirty days,~~ attend school, attend postsecondary
22 education classes, or work, register with the chief of police of the municipality in which the
23 person resides, domiciles, attends school, attends classes, or works, or, if no chief of police
24 exists, then with the sheriff of the county ~~in which the person resides~~. A violation of this section

1 is a Class 1 misdemeanor. However, any subsequent violation is a Class 6 felony. Any person
2 whose sentence is discharged under § 23A-27-14 after July 1, 1995, shall forward a certified
3 copy of such formal discharge by certified mail to the Division of Criminal Investigation and to
4 local law enforcement where the person is then registered under this section. Upon receipt of
5 such notice, the person shall be removed from the sex offender registry open to public inspection
6 and shall be relieved of further registration requirements under this section.

7 Section 3. That § 22-22-31.1 be amended to read as follows:

8 22-22-31.1. The Division of Criminal Investigation shall mail a nonforwardable verification
9 form at least once annually to the last reported address of each person registered under
10 § 22-22-31. The person shall return the verification form to the Division of Criminal
11 Investigation within ten days after receipt of any such form. The verification form shall be signed
12 by the person required to register and shall state that the person still resides at the address last
13 reported to the Division of Criminal Investigation. If the person fails to return the verification
14 form to the Division of Criminal Investigation within ten days after receipt of the form, the
15 person is in violation of the registration provisions of § 22-22-31 and is subject to the penalties
16 ~~prescribed in § 22-22-31~~ this section. Nonreceipt of a registration verification does not constitute
17 a defense to failure to comply with § ~~22-22-37~~ this section. A violation of this section is a Class
18 1 misdemeanor. Any subsequent violation is a Class 6 felony.

19 Section 4. That § 22-22-36 be amended to read as follows:

20 22-22-36. Any person required to register pursuant to §§ 22-22-30 to 22-22-39, inclusive,
21 who moves to a different residence address shall inform the law enforcement agency with whom
22 the person last registered of the new address, in writing, within ten days. The law enforcement
23 agency shall, within three days of receipt, forward the information to the Division of Criminal
24 Investigation and to the law enforcement agency having jurisdiction of the new residence. A

1 failure to register pursuant to this section is a Class 1 misdemeanor. Any second or subsequent
2 failure to register pursuant to this section is a Class 6 felony.

3 Section 5. That § 22-22-37 be amended to read as follows:

4 22-22-37. Any person required to register pursuant to §§ 22-22-30 to 22-22-39, inclusive,
5 shall annually register with the local law enforcement agency having jurisdiction of the person's
6 residence verifying the information given pursuant to § 22-22-32. A violation of this section is
7 a Class 1 misdemeanor. Any ~~third~~ second or subsequent violation of this section is a Class 6
8 felony.